

United States Bankruptcy Court
For the Eastern District of North Carolina

In re:
Caremerica, Inc.
Debtor

Case Number: 06-02913-8-JRL

James B. Angell, Chapter 7 Trustee
Plaintiff

Adversary Proceeding Case Number:
08-00174-8-JRL

v

BER CARE, INC., f/k/a PPS, Inc.,
Adcar, Inc., Ann H. Day, Antonia P. Elliott
Antonia Ferrara, Joseph Alex Cannon Jr.,
Cher Cannon, Diversified Enterprises, Inc.
d/b/a Cannon Construction, Cape Associates,
L.L.C., Capital Resource Solutions, LLC,
Carolina Care, LLC, City of Kinston,
City of Wilson, Crescent State Bank,
DeltaCom, Inc., Dona H. Burrell,
First Eastern, LLC, GEMSA Loan Services,
Limited Partnership, Institution Food
House, Inc., Institutional Services, L.L.C.,
Jette Ferrell, John F. Smith III,
Joshua Houghton, National Assisted Living
Risk Retention Group and/or
Rinklin-Shuttleworth of Georgia, LLC,
Opesnet Corporation, Pachki, Incorporated,
d/b/a Andy Anderson Agency, Pinewood
Associates, a General Partnership and/or
Pinewood of Pink Hill, LLC, Powell Properties
of Durham County, LLC Red Mortgage Capital,
Inc., Robert D. Shelley, Dawn O. Roland and/or
Walter D. Rowland, Saundra Etheridge, Stanley
E. Brunson, Jr., Susan W. Simms, WFY, LLC,
Robert D. Shelley d/b/a WYC, LLC and/or
Ed Prince d/b/a WYC, LLC
Defendants

Motion to Dismiss of Defendants
First Eastern, LLC and
Powell Properties of
Durham County, LLC

Defendants First Eastern, LLC and Powell Properties of Durham County, LLC move the court, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure and Rule 7012 of the Federal Rules of Bankruptcy Procedure, to dismiss this adversary proceeding for failure to state a claim upon which relief can be granted.

These defendants are filing a memorandum of even date setting forth defendants' argument in support of this motion.

This the 4th day of November, 2008.

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s/John S. Williford, Jr.
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Certificate of Service

I, the undersigned, do hereby certify that a true copy of the foregoing motion to dismiss was this day served on the other parties by placing a true copy thereof in an envelope, which envelope was then sealed and postage thereon fully prepaid, and on this day said envelope was thereafter deposited in an official depository of the United States Postal Service under the exclusive care and custody of the United States Postal Service, said envelope being properly addressed to the attorney of record of the other parties as follows:

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and to the parties named below as follows:

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This the 4th day of November, 2008.

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By: s/John S. Williford, Jr.

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